

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

NEONODE SMARTPHONE LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO. LTD.
and SAMSUNG ELECTRONICS
AMERICA, INC.,

Defendants.

Civil Action No. 6:20-cv-00507-ADA

JURY TRIAL DEMANDED

CASE STATUS READINESS REPORT

Plaintiff Neonode Smartphone LLC and Defendants Samsung Electronics Co. Ltd and Samsung Electronics America, Inc., hereby provide the following status report in advance of the initial Case Management Conference (CMC).

FILING AND EXTENSIONS

Plaintiff's Complaint was filed on June 8, 2020. There has been one extension to respond for a total of 81 days.

RESPONSE TO THE COMPLAINT

On September 25, 2020, Defendants responded to the Complaint by filing a Motion to Dismiss Plaintiff's Claims of Willful Infringement as to Both Patents-In-Suit and Plaintiff's Claims of Indirect Infringement and Direct Infringement as to U.S. Patent No. 8,812,993.

PENDING MOTIONS

There is one pending motion: Defendants' Motion to Dismiss Plaintiff's Claims of Willful Infringement as to Both Patents-In-Suit and Plaintiff's Claims of Indirect Infringement and Direct Infringement as to U.S. Patent No. 8,812,993.

RELATED CASES IN THIS JUDICIAL DISTRICT

Neonode Smartphone LLC v. Apple Inc., Case No. 6:20-cv-00505-ADA (“the Apple case”), which involves the same patents as are being asserted by Plaintiff against Defendants in the present action.

The parties request that the present action be consolidated with the Apple case for claim construction purposes through the date of the *Markman* hearing with respect to scheduling and *Markman* briefing, and that subsequent to the *Markman* hearing the two cases be coordinated for all purposes through the dispositive motion deadline such that the case management schedule in the two cases would be the same. This will be conducive to judicial economy and the efficient resolution of these two related actions.

IPR, CBM, AND OTHER PGR FILINGS

There are no known IPR, CBM, or other PGR filings.

NUMBER OF ASSERTED PATENTS AND CLAIMS

Plaintiff has asserted two patents and a total of 15 claims. Plaintiff served its Preliminary Disclosure of Infringement Contentions and Priority Dates on Samsung on October 16, 2020.

APPOINTMENT OF TECHNICAL ADVISER

The parties do not at this time request that a technical advisor be appointed in this case.

MEET AND CONFER STATUS

Plaintiff and Defendant have conducted a meet & confer conference.

Plaintiff has no pre-*Markman* issues to raise at the CMC.

Samsung seeks leave to conduct limited, third-party pre-*Markman* discovery regarding prior art that appears to reside with Sony and which may be located overseas. This pre-*Markman* discovery would be limited to documents relating to prior art. In addition, Samsung seeks leave to conduct pre-*Markman* discovery related to: (a) certain overseas Neonode-affiliated entities (including Neonode, Inc., which appears to be located in Sweden, who was a prior owner of the patents-in-suit); and (b) Magnus Goertz, named inventor on the patents-in-suit, who appears to reside in Sweden. Counsel for Plaintiff confirmed that it is not authorized to accept a subpoena on behalf of any overseas Neonode entities.

Neonode does not oppose Samsung's request for third party foreign discovery to the extent that is directed toward commencing the process of obtaining the discovery identified above. Neonode does oppose the request to the extent that it seeks to take the discovery (e.g., obtain documents or take depositions) prior to the *Markman* hearing, as an inefficient use of the parties' time and resources and as directed to matters that would likely have no bearing on the construction of any claim terms at issue.

DATED: October 23, 2020

Respectfully submitted,

By: /s/ Philip J. Graves

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Counsel for Plaintiff Neonode Smartphone LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 23th day of October 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

/s/ Philip Graves
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